

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link Up)	WC Docket No. 03-109

COMMENTS OF NEW AMERICA FOUNDATION

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I. INTRODUCTION

New America Foundation (“NAF”) respectfully submits these comments in response to the Federal Communications Commission’s *Notice of Proposed Rulemaking* (“NPRM”)¹ in the above-captioned dockets. The NPRM seeks comment on the rules designed to improve delivery of Lifeline and Link Up benefits to low-income consumers and to enhance protections against waste, fraud, and abuse related to the fund.

In response to the Commission’s NPRM, NAF urges the Commission to take the following steps to ensure that the largest number of those eligible to receive benefits are served, that they are served by providers who can effectively meet their needs, and that they are able to choose where to

¹ *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Notice of Proposed Rulemaking*, FCC 11-32 (rel. Mar. 4, 2011) (“NPRM”).

apply their benefits. Therefore, the Commission should: (1) expand the type and number of providers eligible to receive Lifeline support; (2) grant low-income consumers flexibility to apply their benefits to whatever service or package best fits their needs and means; (3) lessen the significant disparities between the High-Cost and low-income programs by redirecting a modest portion of savings from the High-Cost fund to support Lifeline and Link Up programs; and (4) ensure that the proposed pilot program does not, by virtue of its design, foreclose the inclusion of existing, effective models of broadband adoption and the wide range of innovations these models can produce.

As the Commission seeks to reform Lifeline Link Up to meet the needs of the 21st Century, it must move beyond a prescriptive, one-size-fits-all approach for ensuring that low-income communities have the opportunity to utilize and benefit from telecommunications. Technology is changing rapidly and, with it, so do needs. To ensure that the transition to providing broadband connectivity to low-income communities is effective, the Commission should emulate the approach of the BTOP and BIP programs and open doors for innovative new models, thinking, and approaches in making broadband more affordable and accessible for all Americans.

II. COMMUNITY NETWORK PROVIDERS SHOULD BE ELIGIBLE RECIPIENTS OF LIFELINE AND LINK-UP BENEFITS.

Community Networks are vital resources for making communications accessible and affordable for all Americans in all communities across the nation, and are often designed to meet the specific needs of the communities they serve. For example, the Mountain Area Information Network (“MAIN”) in rural Asheville, North Carolina, offers affordable broadband access to residents.² Similarly, Freenet in Lawrence, Kansas, aspires to “build a community in which everyone can access the Internet, anywhere, anytime, free of charge.”³ Freenet provides very affordable broadband access to residence of Lawrence with no hidden fees or other charges and provides free access to as many low-

² See Mountain Area Information Network website, available at <http://main.nc.us/>.

³ See Lawrence Freenet website, available at <http://www.lawrencefreenet.org/what-we-do.php>.

income residents and non-profit organizations as the network can support.⁴ Also, through LompocNet, a community network in Lompoc, California, managed by the local electric utility, residents can get broadband access for just \$9.99 a month.⁵ To ensure that these networks are situated to meet the needs of low-income members of their communities, the Commission should take the necessary steps to allow them to participate in the Lifeline and Link Up programs.

Community Networks recently received eligibility to lease dark fiber to eligible schools and libraries as part of the E-Rate program.⁶ In addition, non-profit, community-based networks are eligible for and currently receive substantial funding through the Broadband Technology Opportunities Program (“BTOP”) and Broadband Initiatives Program (“BIP”). These programs correctly realized that the tax status “of the entity deploying the broadband, whether a private for-profit carrier or a public entity, is irrelevant to the need for expanding broadband availability.”⁷ Indeed, one of the reasons these programs have been so successful is because of their inclusion of *all* potential broadband providers. Many of these providers are similarly interested in providing services with support from the Universal Service Fund.⁸ It makes little sense for the Commission to deny eager, local, community-based providers the opportunity to participate in the Lifeline and Link Up programs when those providers stand ready to improve deployment and adoption and provide affordable broadband access.

⁴ *Id.*

⁵ See LompocNet website, *available at* <http://www.cityoflompoc.com/lompocnet/>.

⁶ *In the Matter of Schools and Libraries Universal Service Support Mechanism: A National Broadband Plan For Our Future*, CC Docket No. 02-6, GN Docket No. 09-51, *Sixth Report and Order*, FCC 10-175 at ¶ 9 (rel. Sept. 23, 2010).

⁷ Comments of The National Association of Telecommunications Officers and Advisors and New America Foundation’s Open Technology Initiative, WC Docket Nos. 10-90, 05-337, GN Docket No. 09-51, at 2-3 (filed July 12, 2010); *see also* Notice of Funds Availability, 74 Fed. Reg. 3791, 3799 (July 9, 2009) (“Consistent with the rationale set forth in the First NOFA, the Assistant Secretary found it to be in the public interest to permit for-profit corporations and non-profit entities ... that are willing to promote the goals of the Recovery Act and comply with statutory requirements of BTOP to be eligible for a grant. By adopting this broad approach, the Assistant Secretary intended to invite a diverse group of applicants to participate in BTOP ...”).

⁸ See, e.g., “Wally Bowen: ‘Bringing Down Barriers to Broadband,’” Mountain Express, *available at* http://www.mountainx.com/blogwire/2011/wally_bowen_bringing_down_barriers_to_broadband.

Additionally, Community Networks provide benefits beyond mere connectivity. Utilized as part of a broader “Comprehensive Community” approach to deployment originally contemplated under the BTOP program, they are easily paired with sustainable broadband adoption services such as digital literacy training and equipment. Because these efforts are often led by local community organizations and because they may already have ties to low-income populations, they are often more effective with outreach and deployment.

The Commission should therefore, at minimum, permit any broadband Internet access provider that offers services that are the functional equivalent to the currently supported voice service to be eligible to participate in the Lifeline and Link Up programs. The Commission highlights this necessity in the *Notice*, where it correctly notes that the *USF/ICC Transformation Notice* “sought comment on modifying the definition of the supported services,” and “originally chose to define supported services in functional terms, rather than as tariffed services, in order to promote competitive neutrality and provide greater flexibility.”⁹ While a potential transition to broadband might eventually require even broader eligibility requirements, the Commission should in the interim allow any provider capable of providing the functional definition of voice, including interconnected Voice over IP (“VoIP”), to be eligible for Lifeline support. This inclusion would permit community networks such as LUS Fiber¹⁰ in Lafayette, LA, which is currently offering Digital Telephone service to residents, to be eligible for participation in the Lifeline program; it would also permit similar commercial and community-based networks not currently considered ETCs to be eligible as well. Just as cable mobile service operators and mobile broadband carriers are increasingly able to integrate VoIP services and should therefore be potentially eligible for USF support, Lifeline participants should have the option to choose municipal and other community-based providers of equivalent broadband services.

If the Commission's rules offer flexibility in eligibility requirements for providers and are

⁹ NPRM at ¶ 241.

¹⁰ See website of LUS Fiber, available at <http://www.lusfiber.com/>.

forward-thinking in terms of the types of services for which low-income participants can use their credits, Community Networks will remain well situated to help facilitate USF's transition from voice to broadband, as well as continue to bring telecommunications services in various forms to low-income communities. The Commission should take any steps necessary to ensure that Community Networks are eligible for benefits under the Lifeline and Link Up programs.

IV. LIFELINE AND LINK UP PARTICIPANTS SHOULD HAVE THE ABILITY TO CHOOSE THE SERVICES TO WHICH THEY APPLY THEIR BENEFITS.

Basic connectivity has moved beyond traditional voice. Consumer needs, in turn, have become increasingly varied. Looking forward, voice and data services integrated in a single broadband service offering will prove to be most economical for low-income households that have the greatest difficulty paying for a full bundle of separate video, voice, and Internet services. The Commission should accommodate these changing technologies and economic realities by moving toward an expanded Lifeline support that covers both voice and broadband services, ensuring that customers are given adequate freedom to apply their benefits to services of their choosing.

The Commission proposes “a uniform federal requirement that Lifeline and Link Up discounts may be used on any Lifeline calling plan offered by an ETC with a voice component, including bundled service packages”¹¹, as well as “a national rule that would require all ETCs to offer Lifeline and Link Up discounts on all of their service plans with a voice component.”¹² These requirements, would supersede the existing requirements of many states¹³ and policies of several carriers¹⁴ that prohibit the use of Lifeline benefits for bundled services. However, given the variance in the types of

¹¹ NPRM at ¶ 258.

¹² *Id.* at ¶ 259.

¹³ *Id.* at ¶ 256-257.

¹⁴ *Id.* at ¶ 259. “In a number of states where ETCs are not precluded by state requirements from allowing consumers to apply their Lifeline discounts to the purchase of bundled packages or optional services, many carriers – including large carriers like Sprint-Nextel, Verizon Wireless, and AT&T Mobility – limit Lifeline offerings to basic voice service.”

packages offered, as well as in consumer preferences and needs, we believe a more flexible rule is needed. While carriers could be required to offer discounts on their service plans, or bundles, with a voice component, *consumers* should have the choice to apply their subsidy to a voice-only, data-only, or bundled service package. For some Lifeline-eligible consumers with an existing cellular phone contract but no broadband service, the discount might be most efficiently applied to a broadband-exclusive subscription, rather than a bundled package that includes a voice offering that they may see as redundant to their existing cellular subscription. Particularly given the very limited discount provided through Lifeline and the generally higher costs associated with broadband service compared to basic voice, Lifeline-eligible customers should have the option to apply the full discount to whatever service best meets their needs. Low-income individuals or households should certainly *not* be required to purchase a bundled service package as a condition for receiving a Lifeline/Link Up subsidy for Internet access service.

V. THE COMMISSION SHOULD REALLOCATE SAVINGS FROM THE HIGH-COST FUND TO INCREASE FUNDING TO LIFELINE AND LINK UP.

In the High Cost *Notice of Proposed Rulemaking*, the Commission indicated that it could save close to \$1 billion dollars through proposed reforms. Although the Commission currently proposes to reinvest the entirety of those savings into the Connect America Fund, it should consider diverting a modest percentage of those savings to the Lifeline and Link Up programs to further support existing programs and to potentially increase the amount of funding available for the proposed pilot program. The Commission should strive over time to steadily shift an increasing share of overall USF support from providers (in support of buildout to achieve high-capacity access for all) to consumers, a policy that will help promote more competitive markets and enhances consumer welfare.

New America Foundation understands the needs of rural communities and wholeheartedly supports reinvestment in the High-Cost program. However, the disparity in funding between the two programs is great, with Lifeline receiving approximately one-fourth as much funding as its high-cost

counterpart.¹⁵ In order to meet the growing needs of low-income households, a redistribution of savings from the high-cost program to the low-income program would ensure that the latter is able to serve all of those households eligible for services.¹⁶ In light of the continuing economic challenges and high unemployment in the Nation, the Commission should not at this time place a cap on a program that will likely become more of a necessity for low-income communities and struggling families as they seek new job opportunities and education, searches that are increasingly dependent upon access to the Internet. While any amount of redistribution would be helpful, New America Foundation suggests that at least 15% of the savings from the high cost program should be set aside for the low-income program.

In addition to furthering the capacity of the program to serve low-income communities, the additional funding could also provide a significant increase in funding for the proposed broadband pilot and help ensure that those projects cover a critical mass of participants and models by permitting a wider variety of projects to be developed and allowing individual projects to be scaled closer to those developed with BTOP adoption grants.¹⁷ Presently, there is some uncertainty concerning the source of funding for the pilot programs. As the Commission notes, it plans “to set aside a discrete amount of universal service funds reclaimed from eliminating inefficiencies and/or waste, fraud, and abuse to

¹⁵ See “Fund Facts,” Universal Service Administrative Company (“USAC”) website, *available at* <http://www.universalservice.org/about/universal-service/fund-facts/fund-facts.aspx> (noting that the high-cost fund receives \$4.3 billion, compared to \$1 billion for the low-income fund).

¹⁶ See Appendix III: Estimated Lifeline Participation Rates Among Eligible Households by State in 2009, U.S. GOVERNMENT ACCOUNTABILITY OFFICE, REPORT TO CONGRESSIONAL REQUESTERS, GAO 11-11, TELECOMMUNICATIONS: IMPROVED MANAGEMENT CAN ENHANCE FCC DECISION MAKING FOR THE UNIVERSAL SERVICE FUND LOW-INCOME PROGRAM (2010) (“2010 GAO Report”) (Noting graphically that, in the majority of states, fewer than 50% of those eligible for benefits under the Lifeline program actually participate in it).

¹⁷ See National Telecommunications and Information Administration. The Broadband Technology Opportunities Program: Overview of Grant Awards, *available at* http://www.ntia.doc.gov/reports/2010/NTIA_Report_on_BTOP_12142010.pdf. The average BTOP adoption grant was \$5.7 million. A funding level of \$50 million could therefore theoretically support a total of 8-10 projects of similar scale to that of an average BTOP project.

create a pilot program to evaluate whether and how Lifeline/Link Up can effectively support broadband adoption by low-income households.”¹⁸ Much of the funding for the proposed pilots is singularly dependent on “at least some of the savings from the proposal to eliminate reimbursement for Toll Limitation Services,”¹⁹ with a “total annual 2011 TLS support of approximately \$23 million.”²⁰ However, as the Commission acknowledges, TLS support may either be eliminated or scaled back, meaning the already modest \$23 million sum may be even less.²¹ Given this uncertainty, the Commission should grant itself the flexibility to support an adoption pilot program from a number of sources, including the High-Cost Fund savings, which would allow funding levels to increase significantly.

VI. THE COMMISSION SHOULD WORK TO ENSURE THAT THE PROPOSED PILOT PROGRAM IS DESIGNED EXAMINE THE WIDEST POSSIBLE ARRAY OF INNOVATIVE MODELS AND STRATEGIES THAT CAN BE USED TO EFFECTIVELY DIRECT LIFELINE’S TRANSITION TO BROADBAND.

New America Foundation is concerned about the Commission’s proposed broadband pilot program. In order to elicit meaningful results, the pilot must be adequately funded, inclusive, broad in scope, and must not be overly prescriptive in initial design. For the reasons outlined above, NAF identifies a need for a significant increase in funding for the program.

In addition, the current framework for the pilot programs is very limiting in terms of what entities and models would be eligible to participate in the pilot. Although the Commission emphasizes its desire to structure the pilot program as “a joint effort among the Commission, one or more broadband providers, and/or one or more non-profit institutions or independent researchers with experience in program design and evaluation,”²² it appears to propose limiting the pilot to a single

¹⁸ NPRM at ¶ 279.

¹⁹ *Id.* at ¶ 288.

²⁰ *Id.*

²¹ *Id.* at ¶ 70.

²² *Id.* at ¶ 281.

model for broadband adoption that excludes both community models for training and broadband access as well as limiting the ability of other non-ETC broadband providers to participate.

Pilot programs, by definition, are expected to be experimental and exploratory. As the Commission seeks to determine what is the best path forward for ensuring universal adoption of broadband, it must assess the widest possible range of models, strategies, and networks, and other components. Under the current framework, a significant number of adoption programs and models funded through by the BTOP program would not be eligible and included in the research. Moreover, given the limitations on funding for the pilot, the Commission should actually seek to build upon the current BTOP projects and work already being done and, where appropriate, fund additional research or development of existing and successful adoption programs. Thus, as the Commission formulates a specific pilot framework, it should ensure that it does not foreclose innovative models and strategies by placing unnecessary limitations on what type of providers, networks, and other entities would be eligible to participate in the pilot.

VII. CONCLUSION

In sum, the Commission's rules for Lifeline and Link Up should ensure that any provider, including municipal and nonprofit Community Networks, that provides the functional equivalent of voice service is eligible for support and that Community Networks are able to provide broadband access when and if the fund shifts to supporting broadband service. It should, in turn, allow consumers to use their Lifeline benefits for whatever service they choose, including broadband-only service. Additionally, the Commission should rebalance funding among the existing USF programs by directing a substantial portion of funds saved under from the high-cost fund to the Lifeline and Link Up programs, and directing some of those funds to be used for a significant increase in support for the pilot program. Finally, the Commission should not foreclose the inclusion of a variety of entities from participating or the incorporation of existing successful broadband adoption models in its design of the broadband pilot project.

Respectfully Submitted,

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